



NEJVYŠŠÍ SPRÁVNÍ SOUD



**Colloquium organized by Supreme Administrative Court of the Czech Republic and ACA-Europe**

**Provide or Protect? Administrative courts between Scylla of freedom of information and Charybdis of protection of privacy.**

Prague, 29-31 May 2016

**Answers to Questionnaire: Latvia**



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# Provide or Protect? Administrative courts between Scylla of freedom of information and Charybdis of protection of privacy

(questionnaire)

Republic of Latvia

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## Part I

1. Is the central administrative supervision over providing information and protection of personal data carried out by one administrative authority or are there specialized authorities for each of these fields or is there an absence of such an authority in any of these areas? Does the chosen model cause any application problems?

There is only a central administrative authority in charge of protection of personal data. According to Paragraph 1 of the Section 29 of the Personal Data Protection Law the supervision of protection of personal data is carried out by the Data State Inspectorate, which is subject to the supervision of the Ministry of Justice and operates independently and permanently fulfilling the functions specified in laws and regulations, takes decisions and issues administrative acts in accordance with the law. Duties and rights of the inspectorate include:

- supervising compliance of processing of personal data with the requirements of Personal Data Protection Law;
- taking decisions and reviewing complaints regarding the protection of personal data;
- requiring that data be blocked, that incorrect or unlawfully obtained data be erased or destroyed, or ordering a permanent or temporary prohibition of data processing;
- imposing administrative penalties according to the procedures specified by law regarding infringements of processing of personal data;
- etc.

Administrative acts and actual actions of the Data State Inspectorate can be appealed to the District Court of Administrative cases.

Regarding providing information, there is no central authority. As stipulated by Freedom of Information Law, a person may ask to supply the relevant information to the institution that has it. If the institution refuses to supply the information or does not comply with the request properly, a person can challenge the refusal to grant information to a higher authority in accordance with procedures regarding subordination and then appeal it to the District Court of Administrative Cases.

Lack of a central administrative supervision is remedied by the courts of administrative cases, especially the last instance, i.e., the Department of Administrative Cases of the Supreme Court, which function as a mechanism for unifying the practice in both areas.

2. What types of information are excluded from providing? Is there one regime regarding all exclusions or is there any differentiation – e.g. absolute exclusion and relative exclusion?

Freedom of Information Law provides that information shall be accessible to the public in all cases, when the law does not specify otherwise, and the Supreme Court has emphasized that all limitations shall be interpreted narrowly.<sup>1</sup>

Freedom of Information Law stipulates that information is data or compilations of data, in any technically possible form of fixation, storage or transfer, and distinguishes two types of information – generally accessible information and restricted access information.

According to Sections 4 and 5 of the Freedom of Information Law, generally accessible information is any information, which is not categorised as restricted access information, however restricted access information is such information as is intended for a restricted group of persons in relation to the performance of their work or official duties and the disclosure or loss of which, due to the nature and content of such information, hinders or may hinder the activities of the institution, or causes or may cause harm to the lawful interests of persons. Restricted access information is information:

1) which has been granted such status by law (e.g. according to Section 28<sup>3</sup> of the law “On Judicial Power” court materials examined during open court after the coming into force of the final court adjudication are restricted access information and are available in accordance with the Freedom of Information Law);

2) which is intended and specified for internal use by an institution;

3) which is a commercial secret, except in the case where a purchase contract has been entered into in accordance with the Public Procurement Law or other type of contract regarding actions with State or local government financial resources and property;

4) which concerns the private life of natural persons;

5) which is related to certifications, examinations, submitted projects (except projects the financing of which is expected to be a guarantee provided by the State), invitations to tender (except invitations to tender, which are associated with procurement for State or local government needs or other type of contract regarding actions with State or local government funds and property) and other assessment processes of a similar nature;

6) which is for official use only; or

7) which are North Atlantic Treaty Organisation or European Union documents, which are designated as “NATO UNCLASSIFIED” or “LIMITE” respectively.

Apart from the first case where the restricted access information status has been specified by law, the author of information or the head of an institution determines restricted access

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<sup>1</sup> The Supreme Court of the Republic of Latvia, judgment of the 17 February 2012, No. SKA-53/2012.

information status for 1 year, with an option to specify of a new time period. Information, which is accessible to the public without restrictions provided by law, or which has already been published, cannot be deemed as restricted access information.

Section 10 of the Freedom of Information Law stipulates that an institution shall provide information on its own initiative or on the basis of an application from a private person. The rights of a person to access generally accessible information are presumed and he does not need to justify his interest. However, regarding restricted access information, a person must comply with the procedure laid down in law. Paragraph 4 of Section 11 requires that restricted access information is requested in writing and the person provides grounds for his or her request and specifies the purpose for which the information will be used. The reasons and the purpose must be specified to provide a reliable understanding of the necessity and usage of the information, e.g., a lawyer could indicate that he will use the information in specific criminal proceedings.<sup>2</sup>

The institution can refuse to hand out this information only in exceptional cases and has to provide grounds for this refusal.<sup>3</sup>

There are some types of information that is excluded from the scope of the Freedom of Information Law. E.g., Paragraph 2 of Section 28<sup>3</sup> of the law “On Judicial Power” stipulates that until the coming into force of the final court adjudication in this case, court materials are available only for those persons, for whom such rights have been provided for in procedural laws, thus Freedom of Information Law does not apply.<sup>4</sup> Also the law “On official secrets” provides a special approach to official secrets - such military, political, economic, scientific, technical or other type of information which is included in the list approved by the Cabinet of Ministers and the loss or illegal disclosure of which may cause harm to the security, and economic or political interests of the State. The Freedom of Information Law does not apply to this kind of information and there is also a special procedure to obtain such information. A refusal to grant such information can be challenged to Director of the Constitution Protection Bureau and later to Prosecutor General, who can evaluate whether the classification was justified.<sup>5</sup> Special regulations apply also to other kinds of information owned by the Constitution Protection Bureau.<sup>6</sup>

3. Are there any types of subjects governed by private law that have duty to provide information? If the answer is affirmative, what kind of subjects and what kind of information?

Freedom of Information Law conveys duties to provide information on state institutions, however it also applies to subjects governed by private law in cases when they implement administration functions and tasks.

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<sup>2</sup> The Supreme Court of the Republic of Latvia, judgment of 26 March 2015, No. SKA-383/2015.

<sup>3</sup> The Supreme Court of the Republic of Latvia, judgment of 17 February 2012, No. SKA-53/2012.

<sup>4</sup> The Supreme Court of the Republic of Latvia, judgment of 14 May 2010, No. SKA-511/2010.

<sup>5</sup> The Supreme Court of the Republic of Latvia, judgment of 17 January 2012, No. SKA-135/2012.

<sup>6</sup> The Supreme Court of the Republic of Latvia, judgment of 15 June 2012, No. SKA-272/2012.

In other cases, when the subject is acting within private law, even regarding State owned private entities, a person cannot request information from the entity itself. E.g., it has been recognized that the society can expect that state institutions have control over the effectiveness of their investments in companies in which state is a shareholder. When it is in the interests of the public, the state should reveal even commercial information.<sup>7</sup> However, this information is to be requested from the responsible state institution not the entity.<sup>8</sup>

4. Are the salaries of the employees of the public sector subject to the right to free access to information as well? Does this cause any application problems regarding the personal data protection?

Even though Freedom of Information Act provides protection for personal data, this protection is not absolute. As the salaries of public sector employees are paid from the state budget, which is derived from the public financial resources, the public's legitimate interest to know about the expenses of State outweigh state employees' right to privacy.<sup>9</sup> The same principles apply to autonomous public institutions such as the central bank of Latvia.<sup>10</sup> The Supreme Court has emphasised the importance of freedom to receive information for the press to fulfil its role as a "watchdog" in society and inform tax payers about how public recourses are being spent.<sup>11</sup> Problems may arise in assessing to what extent actually the requested information is about an employee's salary and when it reaches too far.

5. Is the trade secret excluded from the free access to information?

Paragraph 2, Clause 3 of Section 5 of the Freedom of Information Law provides that commercial secrets are deemed to be restricted access information, and Section 7 of the law elaborates that information, which is created by a merchant or belongs to a merchant and the disclosing of which may have a significant adverse impact on the competitiveness of the merchant, is deemed to be a commercial secret. A merchant in transferring information to an institution must indicate whether the information is a commercial secret and what is the legal basis for such a status. It continues to restricted access information until the merchant notifies about the loss of status as a commercial secret or the information has become common knowledge to third parties.

Even though this information has restricted access status it does not mean that it cannot be revealed upon application to the institution. It has been recognised in the case law of administrative courts, that a person has rights to receive commercial secret if it is provided in law or if the information concerns significant interests by the society and this interest outweighs

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<sup>7</sup> The Supreme Court of the Republic of Latvia, judgment of 11 April 2014, No. SKA-10/2014.

<sup>8</sup> The Supreme Court of the Republic of Latvia, judgment of 10 September 2012, No. SKA-606/2012; judgment of 12 January 2011, No. SKA-221/2011.

<sup>9</sup> The Supreme Court of the Republic of Latvia, judgment of 1 July 2010, No. SKA-347/2010; judgment of 10 September 2012, No. SKA-606/2012.

<sup>10</sup> The Supreme Court of the Republic of Latvia, judgment of 26 May 2011, No. SKA-421/2011.

<sup>11</sup> The Supreme Court of the Republic of Latvia, judgment of 1 July 2010, No. SKA-347/2010.

possible harm for the merchant.<sup>12</sup> The person must provide grounds for the necessity of such information and cannot just use general statements.<sup>13</sup>

#### 6. Are documents that are subject of intellectual property excluded from the free access to information?

There is no direct mention of right of authorities not to hand out information that contains intellectual property in the Freedom of Information Law. However, Paragraph 5 of Section 12 of the law instructs that in a situation where the institution has rejected requests for re-use of information to protect third person's intellectual property rights, the institution must also indicate the third person in the refusal.

Even though intellectual property is not indicated as restricted access information, intellectual property rights are protected by specialized laws regarding each type of intellectual property separately. E.g., Copyright law does not allow reproducing a copyrighted material without the permit of the author.

#### 7. Does the right to free access to information cover as well the parts of an administrative file that contain data related to individuals or are these data protected? In which areas of public administration does this cause problems?

Paragraph 2, Clause 4 of Section 5 of the Freedom of Information Law provides that information which concerns the private life of natural persons is deemed to be restricted access information. In a usual situation free access to information would only apply to the part of the administrative file that does not contain restricted access information, unless a person may justify his interest in this information.

In such cases the courts evaluate if the interference with a person's right to private life is prescribed by law, has a legitimate aim, is necessary in a democratic society and proportionate to the aim pursued. E.g., when assessing whether a lawyer can ask the institution to provide a persons' address of place of residence to bring a civil suit against them, the court found that Personal Data Protection Law in principle allows such grounds to access personal data. Furthermore, there is a legitimate aim to revealing the data, namely the protection of the rights of others. However, in this case the lawyer did not provide the contract on which the civil claims are based so the interference was not found to proportionate, because there could be no evidence that by providing the data would allow reaching the legitimate aim.<sup>14</sup>

Problems may arise regarding the so called "whistle-blowers". Section 54 of the Administrative Procedure Law provides that a person that is not a participant in the proceedings may access information pursuant to Freedom of Information Law, Personal Data Protection Law and other laws, however, information about the person who has reported an offense can be revealed only with his consent or in cases provided in law. In a recent case the Supreme Court found that in such situations not only direct information (name, address, etc.), but also other information can identify the person in the specific circumstances indirectly. Such information should also be protected.<sup>15</sup>

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<sup>12</sup> The Supreme Court of the Republic of Latvia, judgment of 11 April 2014, No. SKA-10/2014.

<sup>13</sup> The Supreme Court of the Republic of Latvia, judgment of 23 March 2015, No. SKA-14/2015.

<sup>14</sup> The Supreme Court of the Republic of Latvia, judgment of 23 March 2015, No. SKA-14/2015.

<sup>15</sup> The Supreme Court of the Republic of Latvia, judgment of 28 December 2015, No. SKA-380/2015.

8. Are data related to criminal proceedings or administrative delict proceedings or any data of quasi-criminal nature (typically files of secret police departments from the times of anti-democratic past) excluded from the right to free access to information?

There is again no general indication regarding this question in the Freedom of Information Law, however, special requirements are expressed in other legal documents.

Section 6 of the law “On Police” stipulates that the police, in the interests of the service, shall inform State and local government institutions as well as the public regarding police operations. The police are prohibited from disclosing information that is an official secret or other secret specifically protected by law and which contains commercial secrets or patent secrets. It is prohibited to disclose data from a pre-trial investigation without the permission of the prosecutor or the investigator’s direct superior officer, as well as materials that are contrary to the presumption of innocence. The police are prohibited from disclosing information, which infringes on the privacy of persons or violates the honour and dignity of natural or legal persons, if such activity does not occur in the interests of securing lawful order or conducting an investigation. Again in this case it is important to evaluate whether it is necessary and in the interests of society to reveal the information.<sup>16</sup>

Regarding files of secret police departments from the times of anti-democratic past, namely, State Security Committee (*in Russian: Комитет государственной безопасности, КГБ*), documents are generally accessible only when they do not contain information about concrete natural persons, otherwise they are only accessible to that specific person.<sup>17</sup>

When it comes to criminal proceedings Section 375 of the Criminal Procedure Law stipulates that, during criminal proceedings, the materials located in the criminal case shall be a secret of the investigation, and the officials who perform the criminal proceedings, as well as the persons to whom the referred to officials present the relevant materials in accordance with the procedures provided for in this law, shall be permitted to familiarise themselves with such materials. After completion of criminal proceedings and the entering into effect of the final adjudication, employees of the court, the Prosecutor’s Office, and investigating institutions, and persons whose rights were infringed upon in the concrete criminal proceedings, as well as persons who performed scientific activities shall be permitted to familiarise themselves with the materials of the criminal case. All final adjudications in criminal cases, ensuring protection of the information specified by law, shall be publicly accessible. Section 28<sup>3</sup> and 28<sup>4</sup> of the law “On Judicial Power” is also relevant. It follows that until the coming into force of the final court adjudication in this case, court materials are available only for those persons, for whom such rights have been provided for in procedural laws, thus Freedom of Information Law does not apply, however, court materials examined during open court after the coming into force of the final court adjudication are restricted access information and are available in accordance with the

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<sup>16</sup> The Supreme Court of the Republic of Latvia, judgment of 31 January 2011, No. SKA-103/2011.

<sup>17</sup> The Supreme Court of the Republic of Latvia, judgment of 20 April 2010, No. SKA-386/2010.

Freedom of Information Law. The same principle has been applied by analogy to other types of similar proceedings, when there have not been specific legal norms.<sup>18</sup>

## Part II

### 9. Public access to decisions

- 9.1. Are there certain types of court decisions that are never disclosed (e.g. classified decisions or any other decisions with restricted access)? If so, describe typical examples and provide statistics (frequency and relevance of cases).

In Latvia, judgment or decision may be taken in open court hearing or in so called closed hearing. According to the Art. 28<sup>2</sup> of the Law on Judicial Power A court adjudication (judgment or decision) taken during open court, which is drawn up as a separate procedural document, must be generally accessible information at the time of pronouncing of adjudication, but, if the adjudication is not pronounced – at the time of adoption thereof (Part 1 of Art. 28<sup>2</sup>). Introductory section and operative part of a court adjudication taken during closed session, if they are pronounced publicly, must be generally accessible information as well (Part 2 of Art. 28<sup>2</sup>). Issuing the information referred previously (to the person which is not a party in the respective dispute), the validity of court adjudication must be included and the information, which discloses the identity of a natural person, must be hidden in accordance with the procedures laid down by the Cabinet of Ministers (Part 3 of Art. 28<sup>2</sup>). Judgments of court taken during open court must be published on the Internet homepage after entering into effect thereof, unless it has been laid down otherwise in the law. Similarly court decisions shall be published in the amount stipulated by the Cabinet. In publishing court adjudications, the part of information, which discloses the identity of a natural person, must be hidden (Part 5 of Art. 28<sup>2</sup>). Additionally to the mentioned before, the Supreme Court publishes certain important decisions in its home page. As for the Constitutional Court, all judgements and decisions are published in its home page as well.

In Latvia, as well as in the Czech Republic, there are no particular categories of judgments that would be generally (i.e. in advance) excluded from publishing. If any proceeding is connected with classified information then this is carefully protected in the court file. The principle of fair trial is fulfilled through the inspection of a court file while the public nature of the proceedings or rather publication of judgments is restricted in favor of the protection of classified information.

- 9.2. If a third person (i.e. not a participant of a proceeding) wants any of your decisions, what is the procedure? On-line access will be discussed below, at this point please focus on other form of access (e.g. is there possibility to request decision through the post service? Is there any charge for it? etc.).

As mentioned before, judgments are published in the Internet (on line). However, if a person requires judgment from a court (thus avoiding on-line option) the court issues the requested judgment or decision in person or sends by post to the stated address. However, in such a case a person have to pay sums stated in the law and cover postal expense (Act No. 96 on Rules governing court's charges for providing certain services

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<sup>18</sup> The Supreme Court of the Republic of Latvia, judgment of 26 April 2013, No. SKA-327/2013.

Is there any Official Collection / journal of decisions of your court (not the online publishing of your decision – see below)? If so, describe in detail the process of its publication. In particular focus on the procedure of selection of the decisions that should be published in it, on frequency and form of publication. Explain whether such collection is published by your court itself, by another public / administrative authority or by private publisher; describe the form of cooperation (e.g. whether such publisher has exclusive right to publish the collection or whether the publisher modifies decisions before they are published etc.). Does your court or public consider such (selected) decisions as having special or added importance / relevance?

In Latvia, as well as in the Czech Republic, the Supreme Administrative Court annually publishes the collection of judgments called “The Judgments and Decisions of the Supreme Court” that includes a few selected judgments and decisions from all the judicial departments of the Supreme Court: Department of Administrative Cases, Department of Civil Cases and Department of Criminal Cases. The publisher of the above mentioned collection of judgments is VSIA “Latvijas Vēstnesis”. The process of selection of judgments is usually conducted by certain highly honored judges of the Supreme Court and their assistants. There is no specific regulated process for the selection of judgments. Judgments are only anonymised, but not modified or changed in substance. The process of publishing collection of judgments helps to highlight very useful judgments for society, however, these judgments does not have any higher or special importance than other judgments of the Supreme Court.

## 10. Editing and anonymisation of decisions

10.1. Do you make the decisions anonymous before they are published? If so, describe the process of anonymisation. In particular focus on facts like who is assigned to carry out anonymisation, whether there are any internal rules regarding anonymisation (except of general regulations on protection of personal data) and what kinds of information is subject of the anonymisation.

Since all judgments of courts are provided to public, all of them must undergo the process of anonymisation. According to Art 14.<sup>2</sup> of Act No. 123 “Rules on publishing courts information on the Internet homepage and treatment of courts decisions prior to their issue” the chairman of respective court is responsible for implementing the rules regarding anonymisation. Thus the chairman or chairlady assigns this responsibility to any employee (this is discretion of the chairman or chairlady) of the respective court, who checks the anonymisation up. Further Courts Administration finally publishes judgments on the Internet homepage.

The extent of the anonymisation is set by the law mentioned before – Act No. 123 “Rules on publishing courts information on the Internet homepage and treatment of courts decisions prior to their issue”.

The Anonymisation includes:

1) Regarding natural persons – first name, family name, residence, personal code, cadastral number of property, registration number of vehicle, and any other data which can lead to identification of respective person.

2) However, the anonymisation in particular does *not* include: names of administrative authorities, data related to legal persons of private or public law; first names and family names of judges and lay judges if they are not parties to the proceedings.

10.2. If there is a change of the rules of anonymisation does it imply any consequences regarding the previously published decisions (in other words are published decisions retrospectively revised to be in conformity with new rules of anonymisation)?

So far, such a matter have not been discussed. However, if any change in the rules would arise in future, it would very likely have no impact on previously published decisions, especially with respect of the amount of documents.

10.3. Name any problem that occurred in your country in connection with anonymisation of the court decisions (e. g. different way of anonymisation at the supreme courts, intensive public discourse, impact of de-anonymisation of decisions by media etc.)

So far, there have not been any major problems in connection with anonymisation of the court judgments. There have not been any worth mentioning court proceedings in connection with anonymisation as well.

10.4. Do you edit decisions designated to publication? If yes, describe please in detail this process. In particular please define who edits, what information is added/deleted (including metadata).

As for the decisions published online the court offices only anonymise them, no other changes are made. Metadata that display with every online search result (e. g. type of decision, date, result of the proceedings etc.) is being entered in the internal database of judgments by the legal secretaries of the courts. From the internal database the metadata are reflected to the external web site at the time of publishing of the full text of the judgment.

10.5. Has development of the right to be forgotten had any impact regarding the process of anonymisation or publication of your decisions? If not, is it at least taken into account regarding the publication of the court decisions in your country?

We have not had experience with the problem in Latvia so far.

## 11. On-line publishing of the decisions

11.1. Are the decisions of your court accessible online? If so, does it include all decisions or just some part of them (if the second option is true please describe the process of the selection of such decisions).

In Latvia, courts adopt so called judgments (by which the case is decided substantially) and decisions (by which certain procedural matters are decided). All courts judgments (of all jurisdiction courts) are available on-line approximately 30 – 60 days after their announcement. However, procedural decisions usually are not available on-line. Only if such a procedural decision is of considerable importance for society it is published in the home page of the Supreme Court.

11.2. Describe the way your decisions are published online. In particular please state whether the decisions are published on your website or through other website or on-line service (e.g. platform administrated by the Ministry of Justice or the Judicial Council etc.). Please add screenshot or link.

As mentioned above, the judgments are entered into the internal database of judgments and further from this internal database judgments are reflected to the external web site which includes search engine.

The screenshot shows the website 'LATVIJAS TIESAS' with a search interface for 'Anonimizētu nolēmumu atlase'. The interface includes a sidebar menu with categories like 'Aktualitātes', 'Tiesas', and 'Anonimizēti tiesu nolēmumi'. The main search area has several filters: 'Atlasīt pēc lietas numura:', 'Atlasīt pēc datuma:' (with 'No:' and 'Līdz:' fields), 'Atlasīt pēc tiesu iestādes:', 'Atlasīt pēc lietas veida:', 'Atlasīt pēc instances:', 'Process:', and 'Likuma pants:' (with 'Izvēlēties pantu' dropdown). There is also a 'Meklēt nolēmuma tekstā:' field and a note: 'Meklēšana notiek precīzi pēc ievadītā vārda vai frāzes.' with 'Atlasīt' and 'Sākt no jauna' buttons.

However, certain previously selected judgments of the Supreme Court (which are considered as important for society) are additionally published in the Internet homepage of the Supreme Court. All the judgments are ordered either in chronological order or in topic based order. Judgments are supplemented with one or three sentence with expresses the main idea of that judgment.

The screenshot shows the website 'LATVIJAS REPUBLIKAS AUGSTĀKĀ TIESA' with a search bar and a navigation menu. The 'Judikatūra' menu item is selected. The main content area shows 'Judikatūras nolēmumu arhīvs' with a breadcrumb trail: 'Judikatūra / Judikatūras nolēmumu arhīvs / Administratīvo lietu departaments'. The title is 'Hronoloģiskā secība 2004-2016' and there is a 'Drukas versija' link. A table lists the archive contents:

	Saturs
Civillietu departaments	2016
Krimināllietu departaments	2015
<b>Administratīvo lietu departaments</b>	
Hronoloģiskā secība 2004-2016	2014
Klasifikators pēc lietu kategorijām (ar tēzēm) 2004-2016	2013
Klasifikators pēc lietu kategorijām (ar tēzēm) kopš 2004. gada	2012
Tiesību aktu rādītājs 2012-2016	2011
	2010
	2009
	2008
Departamentu priekšsēdētāju sešu lēmumi	2007
	2006
Tiesu prakses apkopojumi	2005
	2004

AUGSTĀKA TIESA 

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Judikatūras nolēmumu arhīvs

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**Administratīvo lietu departaments**  
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[Klasifikators pēc lietu kategorijām \(ar tēzēm\) 2004-2016](#)  
[Klasifikators pēc lietu kategorijām \(ar tēzēm\) kopš 2004. gada](#)  
[Tiesību aktu rādītājs 2012-2016](#)

[Departamentu priekšsēdētāju sēžu lēmumi](#)  
[Tiesu prakses apkopojumi](#)  
[Tiesnešu kopsapulču lēmumi](#)  
[ECT nolēmumu arhīvs](#)  
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Klasifikators pēc lietu kategorijām (ar tēzēm) 2004-2016 [Drukas versija](#)

**1. Administratīvais process**

1.1 Administratīvais akts; faktiskā rīcība; publisko tiesību līgums

1.2 Tiesību jomu nošķiršana

1.3 Tiesību principi

1.4 Tiesību normu piemērošana

1.5 Dalībnieki

1.6 Termiņi administratīvajā procesā

1.7 Personas subjektīvās tiesības

1.8 Administratīvais process iestādē

1.8.1 Administratīvā procesa uzsākšana no jauna

1.9 Administratīvais process tiesā

1.9.1 Valsts nodeva

1.9.2 Pagaidu noregulējums administratīvajā procesā

1.9.3 Juridiskā palīdzība

1.9.4 Pierādījumi

11.3. In what formats do you (on-line) provide your decisions? Besides enumeration of formats please state as well whether your court has any systematic policy of open data. Declare whether your court publishes only individual decisions or also datasets<sup>19</sup> are available to public for further use. If datasets are not available to “wide public”, state to whom and under what conditions they are accessible.

The judgments available at the national judgments website are in “PDF” format, but the judgments available in the homepage of the Supreme Court are available in “DOC” format. Datasets are not provided.

## 11. public access to other documents

12.1. Is personal information about your employees published online? Are their curricula available? In what extent, what form (e. g. on the web site of the court) and what information is normally made available (e. g. education, membership, political opinions, family status etc.)? Is this obligatory, can your employees decide on the content and structure of the information about their person? Have you encountered any problems with this issue (e. g. in the Czech Republic intensive discussion about disclosure of information about membership of judges in the Communist Party)? Please, attach a screenshot or link for illustration.

A brief profile (e. g. professional experience and education) of the judge is published on the homepage of the Supreme Court only after appointment of a judge to the office. This information is shown in news feeds. However, there is not separate section where the profiles of all judges are available. The content of information is purely professional and is decided by the judge himself.

However, the homepage of the Supreme Court includes separate section where the profiles of legal advisers and consultants of Analytical Department is published. It includes purely

<sup>19</sup> Datasets – large file having character of database.

professional information (e. g. professional experience). The content of information to be published is decided by the chairlady and the respective employee. Example of the profile:



The screenshot shows the website of the Latvian Supreme Court (Augstākā tiesa). The header includes the court's name and logo. The main navigation bar has links for 'SĀKUMS', 'PAR AUGSTĀKO TIESU', 'JAUNUMI', 'TIESVEDĪBA', 'APMEKLĒTĀJIEM', 'JUDIKATŪRA', 'RESURSI', and 'VĒSTURE'. The left sidebar contains a menu with categories like 'Darbība', 'Priekšsēdētājs', 'Struktūra', 'Nodaļas personāls', 'Administrācija', 'Tiesneši', and 'Plēnumis'. The main content area is titled 'Nodaļas personāls' and features a profile for Anita Zikmane, head of the Department for Judicial and Scientific Analysis. The profile text describes her role since 2013 and lists other staff members like Anda Krastiņa. A photo of the department staff is also included.

The Supreme Court itself has not encountered any problems or disagreement with publishing information about its employees.

12.2. What other documents from the court file, except decisions, are made available on your court's web site (e. g. dissents, submissions of advocates general, submissions of the parties, record of voting of judges on the bench etc.)? Please describe how these documents are disclosed, where and in what form (e. g. on the web site of the court through search form, in the form of open data etc.) If in the form of open data please attach a link to the respective dataset.

The Supreme Court publishes only judgments and dissenting opinions of judges, no other parts of a court file are publicly accessible.

12.3. Can your employees / judges publicly comment decisions of their own or of their colleagues? If so, in what way this usually happens (e. g. articles in legal journals, public discussions on judicial decision-making organized by the respective court)?

According to the Art. 86 (1) of the Law on Judicial Power judges have the rights and freedoms provided by law to citizens. Judges must exercise these rights and freedoms, so that the dignity and honour of the court and judges, impartiality, and the independence of the court do not suffer. According to the Art. 89 (4) outside a court, a judge must avoid everything, which might diminish the authority of the adjudication of a court or the dignity of a judge, or may cause doubt as to their impartiality and fairness.

According to Art. 346 (4) the judge of the Supreme Court who reviewed the case is entitled to adopt descending opinion thus giving his own opinion on how the case should have been decided and thus to express critics.

There is no specific and extensive regulation regarding employees / judges publicly commenting decisions of their own or of their colleagues. Employees and judges often publish commentaries to laws where they i. a. refer to judgments of the Supreme Court (own or of colleagues), they comment their decisions for media or expert journals as well. However, any kind of critics must be intelligent and be expressed in such a form and way that it would not diminish the authority of the adjudication of a court or the dignity of a judge, or may cause doubt as to their impartiality and fairness, thus balance between freedom of expression and authority of the adjudication of a court must be maintained.

### **Part III**

13. What trends, threats and challenges do you foresee to come in the field of freedom of information and protection of privacy during the next decade? What should be the role of supreme administrative jurisdictions in facing these trends, threats and challenges?

This kind of question seems to be too broad for answering it with concrete data. Therefore our aim is not to pursue you to fill it with some concrete and clear statement but what we intend is to know your opinion on what trends could or will influence this scope of decision-making of your jurisdiction. Your answer will serve as the basics for further discussion during the third part of the Colloquium and we hope that this “look into the future” will be pleasant and useful ending of the meeting.

We would very appreciate if the presidents of the Supreme Administrative Courts/Councils of States could provide us with answers to this question.

Field of freedom of information and protection of privacy is gradually facing more and more challenges do you foresee to come in the:

- 1) The protection of journalistic sources and identity of whistle-blowers;
- 2) Balancing between freedom of expression online and the rights of others, especially when it comes to anonymity online, blocking online content, processing of personal data by intermediaries etc.
- 3) Balancing freedom of information or right to privacy on the one hand and the interests of state security on the other hand.